

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 311

Introduced by Assembly Member Dymally

February 9, 2007

~~An act to add Section 3351.7 to the Business and Professions Code, relating to hearing aids.~~ *An act to add Chapter 16 (commencing with Section 4999.80) to Division 2 of the Business and Professions Code, relating to colon hydrotherapy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 311, as amended, Dymally. ~~Hearing aids: over-the-counter sales.~~ *Colon hydrotherapy.*

Existing law provides for the regulation of various professions and vocations, including, among others, physicians and surgeons, podiatrists, osteopaths, and chiropractors.

This bill would enact the Colon Hydrotherapy Act and create the Board of Colon Hydrotherapy within the Department of Consumer Affairs for the purpose of licensing and regulating the practice of colon hydrotherapy, as defined. The bill would provide that the board would consist of 5 members who would be appointed by the Governor for 3-year terms. The bill would establish licensure and practice requirements for colon hydrotherapists, student trainees, and colon hydrotherapy establishments. The bill would require applicants for these licenses to submit an application and specified fees. The bill would direct the deposit of these fees into the Colon Hydrotherapy Fund, which would be created by the bill. The bill would establish various prohibited activities for the practice of colon hydrotherapy and would make a violation of those provisions a crime. The bill would require a colon

hydrotherapy establishment to pass an inspection of the city, county, or city and county where the establishment is located.

Because the bill would impose additional duties on counties and because a violation of this bill’s provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Under existing law, the Hearing Aid Dispensers Licensing Law, the Hearing Aid Dispensers Bureau licenses and regulates the practice of fitting and selling hearing aids. Under that law, a hearing aid is required to be dispensed by a licensed hearing aid dispenser.

Existing law, the Federal Food, Drug, and Cosmetic Act, also regulates the labeling and conditions for sale of hearing aid devices, and preempts state laws that are different from or in addition to those requirements.

This bill would authorize the sale of over-the-counter hearing aid devices by an unlicensed person if such sales are authorized under federal law. The bill would make findings and declarations in that regard.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 16 (commencing with Section 4999.80)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4

5

CHAPTER 16. COLON HYDROTHERAPY

6

7 4999.80. (a) This chapter shall be known and may be cited as
8 the Colon Hydrotherapy Act.

1 (b) *It is the intent of the Legislature that the provisions of this*
2 *chapter regulate colon hydrotherapists and colon hydrotherapy*
3 *establishments so that they serve the health and therapeutic colon*
4 *hydrotherapy needs of the residents of California. It is also the*
5 *legislative intent that those individuals and establishments be*
6 *regulated in order to provide their services in compliance with*
7 *standards of safety, hygiene, and professional ethics for the*
8 *purpose of maintaining the health and welfare of the residents of*
9 *California.*

10 4999.81. *For purposes of this chapter the following definitions*
11 *shall apply:*

12 (a) *“Board” means the Board of Colon Hydrotherapy.*

13 (b) *“Client” means a person receiving a colon hydrotherapy*
14 *session from a colon hydrotherapist at a colon hydrotherapy*
15 *establishment. A colon hydrotherapy client is not a medical patient.*

16 (c) *“Colon hydrotherapist” means a person who has been*
17 *trained to perform a colon hydrotherapy session.*

18 (d) *“Colon hydrotherapy session” means a session where water*
19 *enters a client’s bowels, softening and loosening waste, and*
20 *creating the reflex for evacuation. The client’s colon evacuates*
21 *through normal peristalsis. This process may be repeated several*
22 *times during a session, thereby exercising the muscles which make*
23 *up the colon.*

24 (e) *“Colon hydrotherapy establishment” means a place of*
25 *business where colon hydrotherapy is administered or practiced*
26 *for compensation. A colon hydrotherapy establishment shall comply*
27 *with local building and safety codes, fire codes, and health codes*
28 *in the city, county, or city and county of its location. Colon*
29 *hydrotherapy establishments may be located in either business or*
30 *residential zones, and shall comply with all the requirements of*
31 *Section 4999.83.*

32 (f) *“Colon hydrotherapy school” means any institution of*
33 *learning that has as its purpose the in-depth instruction in the*
34 *theory, practice, application, and ethics of colon hydrotherapy.*
35 *The institution shall offer a residential course of study and require*
36 *a 100-hour course of study with no less than 100 hours of*
37 *classroom instruction, and 25 intern sessions (colonics). The*
38 *institution shall issue a certificate or diploma upon successful*
39 *completion of the course of study and provide an official transcript.*
40 *In addition, an institution shall be approved by the International*

1 Association of Colon Hydrotherapy (I-ACT) and be certified by
2 the Department of Consumer Affairs.

3 (g) “Colon hydrotherapy equipment” means equipment that
4 has been approved by the FDA as a Class II Medical Device for
5 the purpose of performing a colon hydrotherapy session. Colon
6 hydrotherapy equipment does not have a motor or a generator,
7 and it does not generate force. Instead, the equipment controls
8 force. The equipment is designed to provide temperature controlled,
9 pressure controlled filtered water to the client’s rectum and colon.
10 The colon hydrotherapy equipment should be connected to the
11 public water supply in order to meet all local plumbing codes and
12 ordinances and to ensure that the water supply is sanitary.

13 (h) “Obturator” means a stick with a smooth, half sphere on
14 one end and a small handle on the other end. It is placed within
15 the speculum to allow the speculum to enter the anal canal without
16 disturbing the tissue.

17 (i) “Rectal tube or rectal nozzle” means the sterile, disposable,
18 small hollow plastic tube that is inserted approximately 3 inches
19 into the rectum and allows water to flow into the rectum and colon.
20 This tube remains in place during the evacuation of waste, and
21 shall be for a one-time-only use and shall be disposable.

22 (j) “Speculum” means a rigid tube about five and a half inches
23 long and approximately three quarters of an inch in diameter that
24 enters approximately two and a half to three inches into the anal
25 canal. A water tube one quarter inch in diameter attaches to the
26 side of the speculum that is away from the body, with a waste tube
27 one inch in diameter attached on the far end. A speculum shall be
28 for a one-time-only use and shall be disposable.

29 (k) “Table” and “base” mean the cushioned surface upon which
30 a client of colon hydrotherapy rests during a colon hydrotherapy
31 session.

32 4999.82. There is hereby established in the Department of
33 Consumer Affairs the Board of Colon Hydrotherapy for the purpose
34 of administering and maintaining examinations to reflect current
35 trends in the profession, consumer protection, and quality control.
36 The board shall consist of five practicing colon hydrotherapists
37 of integrity and ability, each of whom shall be licensed, and have
38 been practicing as a colon hydrotherapist for a period of at least
39 two years. Board members shall be appointed by the Governor for
40 terms of three years.

1 4999.83 (a) *It shall be unlawful for any person to practice or*
2 *administer any subject or method of treatment listed in Section*
3 *4999.81 without first obtaining and maintaining in effect a colon*
4 *hydrotherapist license or student trainee license as required by*
5 *this chapter. It shall also be unlawful for a student trainee to*
6 *charge a fee for colon hydrotherapy.*

7 (b) *It shall be unlawful for any person, association, firm, or*
8 *corporation to conduct or operate a colon hydrotherapy*
9 *establishment without first obtaining and maintaining in effect a*
10 *colon hydrotherapy establishment license as required by this*
11 *chapter.*

12 (c) *It shall be unlawful for any person, association, firm, or*
13 *corporation to employ as a colon hydrotherapist any person who*
14 *does not hold a current unrevoked and unsuspended colon*
15 *hydrotherapist license as required by this chapter.*

16 (d) *It shall be unlawful for any person, association, firm, or*
17 *corporation licensed pursuant to this chapter to operate under*
18 *any name or conduct business under any designation not specified*
19 *in its license.*

20 4999.84. (a) *Any person, association, firm, or corporation*
21 *desiring to obtain a colon hydrotherapist license or colon*
22 *hydrotherapy establishment license shall submit an application to*
23 *the board. Persons desiring licenses authorizing them to perform*
24 *the activities of a colon hydrotherapist and, in addition, to conduct*
25 *or operate a colon hydrotherapy establishment shall submit two*
26 *separate applications.*

27 (b) *An application for licensure as a colon hydrotherapist shall*
28 *be accompanied by a nonrefundable fee to be established by the*
29 *board. These fees shall be deposited in the Colon Hydrotherapy*
30 *Fund.*

31 (c) *An application for licensure as a colon hydrotherapy*
32 *establishment shall be accompanied by a nonrefundable fee to be*
33 *established by the board. These fees shall be deposited in the Colon*
34 *Hydrotherapy Fund.*

35 4999.85. *An applicant for licensure as a colon hydrotherapist*
36 *or a colon hydrotherapy establishment shall include all of the*
37 *following in the application:*

38 (a) *The applicant's full legal name and current residence*
39 *address.*

- 1 **(b)** Any other name by which the applicant has been known
2 during the previous five years.
- 3 **(c)** The address at which the applicant desires to do business.
- 4 **(d)** The two residence addresses immediately prior to the present
5 address of each applicant, and the dates of residence at each
6 address.
- 7 **(e)** Personally written letters of character reference from three
8 adults who are not related to and who have known the applicant
9 for at least three years. The letters shall include addresses and
10 telephone numbers of the references.
- 11 **(f)** Written proof that the applicant is at least twenty-one years
12 of age if applying for a colon hydrotherapy establishment license,
13 or at least eighteen years of age if applying for a colon
14 hydrotherapist license. Any one of the following written instruments
15 shall be the only acceptable types of identification:
- 16 **(1)** A valid driver's license issued by any state, provided that
17 the license includes a picture of the licensee.
- 18 **(2)** A valid armed forces identification card.
- 19 **(3)** A valid government issued passport that contains a
20 photograph of the applicant and his or her date of birth.
- 21 **(g)** The applicant's height, weight, and hair and eye color.
- 22 **(h)** Two passport-size portrait photographs of the applicant,
23 approximately two inches by two inches in size, taken within the
24 previous six months.
- 25 **(i)** The business, occupation, or employment history of the
26 applicant during the previous five years.
- 27 **(j)** The business license history of the applicant, including
28 whether the applicant, while previously operating in this state
29 under license, has had his or her license revoked or suspended,
30 the reason for the suspension or revocation, and the business
31 applicant's activity or occupation subsequent to the suspension
32 or revocation.
- 33 **(k)** All felony and misdemeanor convictions, excluding those
34 for civil traffic offenses, and the grounds for the convictions.
- 35 **(l)** A certificate from a health care provider stating that the
36 applicant has, within 30 days immediately prior to issuance of the
37 certificate, been examined and found to be free of any contagious
38 or communicable disease.
- 39 **(m)** Documentation of the applicant's education, training, and
40 experience from a colon hydrotherapy school and from colon

1 hydrotherapy establishments in the administration and practice
2 of the subjects and methods relative to the practice of colon
3 hydrotherapy.

4 (n) Any other identification and information as the board may
5 require to be included in the application.

6 4999.86. Any applicant for a license pursuant to this chapter
7 shall present the application to the board containing the
8 information required under Section 4999.85. This information
9 shall be reviewed by the board.

10 4999.87. A colon hydrotherapy establishment license shall not
11 be issued or renewed unless the establishment satisfies all of the
12 following requirements:

13 (a) A readable sign shall be permanently posted at the main
14 entrance identifying the establishment as a colon hydrotherapy
15 establishment. The sign shall not be smaller than 3" x 5" and shall
16 be of a durable material.

17 (b) Required minimum lighting shall be provided in accordance
18 with the Uniform Building Code, and at least one artificial light
19 of not less than twenty-five watts shall be provided in each room
20 or enclosure where colon hydrotherapy services are performed
21 on clients. This lighting shall be used when colon hydrotherapy
22 services are performed.

23 (c) Minimum ventilation shall be provided in accordance with
24 the Uniform Building Code.

25 (d) Colon hydrotherapy establishments shall utilize
26 single-use-only disposable rectal nozzles and speculums.

27 (e) Hot and cold running water, tempered by means of a mixing
28 valve faucet, shall be available to clients at all times.

29 (f) Closed containers shall be provided and used for the storage
30 of clean linens.

31 (g) Adequate dressing and toilet facilities shall be provided for
32 clients. The bathroom shall be within the confines of the
33 establishment. One dressing room, which may be the same as the
34 colon hydrotherapist treatment room, one toilet, and one wash
35 basin shall be provided by every colon hydrotherapy establishment
36 with one to three treatment rooms, inclusive. Another toilet and
37 wash basin shall be provided when there are four or more
38 treatment rooms in an establishment.

39 (h) All walls, ceilings, floors, showers, bathtubs, steam rooms,
40 and all other physical facilities within the colon hydrotherapy

1 establishment shall be in good repair and maintained in a clean
2 and sanitary condition. Cabinets, toilets, and wash basins shall
3 be thoroughly cleaned each day the business is in operation.
4 Shower compartments and bathtubs, where provided, shall be
5 thoroughly cleaned after each use.

6 (i) Clean and sanitary materials, including, sheets and towels,
7 shall be provided for each client of the colon hydrotherapy
8 establishment.

9 (j) All wash basins within a colon hydrotherapy establishment
10 shall have hot and cold running water, tempered by means of a
11 mixing valve faucet. Sanitary towels shall be placed in permanently
12 installed dispensers or upon a permanently attached roll dispenser.
13 A soap dispenser shall be placed on or near each wash basin.

14 (k) If a colon hydrotherapy establishment is located in a
15 residence, the following requirements shall be satisfied:

16 (1) A separate room that is not used as a living space shall be
17 used as the colon hydrotherapy treatment room.

18 (2) Only one colon hydrotherapy treatment room shall be
19 located within a residence.

20 (3) Toilet and wash basin facilities shall be located on the same
21 floor as the colon hydrotherapy treatment room and shall be easily
22 accessible to the colon hydrotherapy treatment room. No
23 nonresidential plumbing fixtures shall be installed to accommodate
24 this use.

25 (4) Adequate parking space for no less than two cars shall be
26 available.

27 (5) A colon hydrotherapy establishment in a residence shall be
28 accessible by a separate outside entrance that does not provide
29 access to the residence. If installation of an outside entrance is
30 necessary, the entrance shall be constructed to the side or back of
31 the residence and conform to all building codes.

32 (6) A colon hydrotherapy establishment shall be separated from
33 the residence by complete partitioning and solid, self-closing doors.
34 Raised panel doors shall not satisfy the requirements of this
35 paragraph.

36 (l) The colon hydrotherapy establishment shall pass the
37 inspection of the city, county, or city and county where it is located.

38 4999.88. (a) A student trainee license may be issued if the
39 applicant has furnished written proof that he or she is enrolled in
40 a colon hydrotherapy school, as defined by subdivision (f) of

1 Section 4999.81, and has completed 50 hours of the required
2 course of study. A student trainee license shall be valid as long as
3 the student trainee is enrolled in a colon hydrotherapy school.
4 Within 60 days of completion of the course and upon submitting
5 a certificate or diploma of graduation from the colon hydrotherapy
6 school, the student trainee shall be eligible to be examined by the
7 board. Upon approval by the board, a student trainee license may
8 be converted to that of a regular colon hydrotherapist license at
9 no additional cost. A student trainee license shall not qualify that
10 licensee to be employed as a colon hydrotherapist in this state at
11 any time. If a student trainee does not submit a certificate from a
12 colon hydrotherapy school within that 60-day period, he or she
13 shall be required to reapply, paying all application fees in full.

14 (b) A colon hydrotherapist license may be issued to an applicant
15 who meets all of the following requirements:

16 (1) The applicant submits a diploma, certificate, or transcript
17 documenting 60 classroom hours in the subjects of anatomy and
18 physiology of the alimentary tract from a colon hydrotherapy
19 school that offers a residential course of study, or submits a
20 transcript documenting no less than two semesters of college-level
21 anatomy and physiology showing a passing grade of C or better.

22 (2) The applicant submits a diploma or certificate and a
23 transcript documenting no less than 100 hours of colon
24 hydrotherapy instruction and supervised practice from a colon
25 hydrotherapy school, as defined in Section 4999.81.

26 (3) The applicant provides written proof of interning experience
27 that includes colon hydrotherapy sessions with a minimum of 25
28 clients. This written proof may be documented by the school, an
29 employer, private client receipts, or colon hydrotherapy session
30 appointment calendars.

31 (4) All applicants shall pass a written examination, with a score
32 of at least 75 percent, prepared and conducted by the board,
33 establishing the applicant's competency and ability to practice
34 colon hydrotherapy. The examination shall require the applicant
35 to demonstrate basic knowledge of the subjects and methods listed
36 in Section 4999.81. The board shall provide applicants with study
37 guidelines to prepare for the written examination. Examination
38 text or outlines shall not be provided to any colon hydrotherapy
39 school.

1 (c) An applicant who either fails to score a passing grade on
2 the written examination described in subdivision (b) or who fails
3 to appear for a scheduled examination shall be entitled to be
4 rescheduled, for a fee to be established by the board. The
5 rescheduling shall be within a 6-month period. If reexamination
6 is not applied for within the 6-month period, an applicant shall be
7 required to pay a new application fee. If the reexamination is not
8 applied for within a 12-month period, a new application process
9 shall be initiated. Applicants who are rescheduled will be given
10 priority on the list of applicants to be examined.

11 (d) All colon hydrotherapy schools, as defined in Section
12 4999.81, shall provide the board with a complete list of students
13 graduated or students terminated within 10 working days following
14 the granting of graduate status to, or the termination of, each
15 student or group of students graduated or terminated.

16 (e) A colon hydrotherapist who has been practicing and has
17 been certified at the foundation level or higher by the International
18 Association for Colon Hydrotherapy since January 1, 2007, shall
19 be provided a license as a colon hydrotherapist pursuant to this
20 chapter and shall not be required to satisfy the requirements of
21 subdivision (b).

22 4999.89. (a) A colon hydrotherapy establishment license or
23 colon hydrotherapist license shall not be issued or renewed if the
24 applicant has been convicted within the last 5 years of any felony
25 or other offense involving moral turpitude or dangerous or narcotic
26 drugs.

27 (b) For purposes of this chapter, “moral turpitude” means acts
28 that adversely affect one’s honesty, integrity, or personal values,
29 and may be defined as an act of baseness, vileness, or depravity
30 in the private and social duties owed to the community.

31 4999.90. (a) Every person, association, firm, or corporation
32 to which a colon hydrotherapist license or colon hydrotherapy
33 establishment license has been issued pursuant to this chapter
34 shall display the license in a conspicuous place upon the colon
35 hydrotherapy business premises. A recent photograph of the colon
36 hydrotherapist licensee or the owner of a colon hydrotherapy
37 establishment shall be attached to the license. The board may
38 inspect all places of business subject to the provisions of this
39 chapter and the books and records of those colon hydrotherapy
40 businesses.

1 ***(b) A change of location of a colon hydrotherapy establishment***
2 ***may be approved by the board upon receiving an appropriate***
3 ***inspection report and a facility transfer fee that the board shall***
4 ***establish at the beginning of each fiscal year.***

5 ***4999.91. (a) Every licensed colon hydrotherapist and colon***
6 ***hydrotherapy establishment shall pay a yearly renewal fee***
7 ***according to a schedule that the board shall establish for each***
8 ***category of license at the beginning of each fiscal year.***

9 ***(b) An individual issued a colon hydrotherapist trainee license***
10 ***shall not be subject to the renewal fee required by subdivision (a)***
11 ***until the board issues him or her a colon hydrotherapist license.***

12 ***4999.92. (a) Upon the sale or transfer of any interest in a***
13 ***colon hydrotherapy establishment, the license for that***
14 ***establishment shall expire. To receive a new colon hydrotherapy***
15 ***establishment license, an application that satisfies all the colon***
16 ***hydrotherapy establishment license application requirements of***
17 ***this chapter shall be submitted to the board by the person,***
18 ***association, firm, or corporation desiring to own or operate the***
19 ***establishment.***

20 ***(b) Any colon hydrotherapy establishment that plans to enlarge***
21 ***or expand the building or other place of business of its***
22 ***establishment shall also satisfy the requirements of subdivision***
23 ***(a).***

24 ***4999.93. (a) All of the following shall be unlawful acts:***

25 ***(1) For any person, association, firm, or corporation to conduct***
26 ***or operate a colon hydrotherapy establishment on the same***
27 ***premises where alcohol is sold, unless operated by a nonprofit***
28 ***corporation or duly licensed athletic club, spa, or resort.***

29 ***(2) For any person, association, firm, or corporation to conduct***
30 ***or operate a colon hydrotherapy establishment on the same***
31 ***premises where an adult bookstore, adult motion picture theater,***
32 ***or adult entertainment enterprise is located.***

33 ***(3) For any person to practice or administer any subject or***
34 ***method of colon hydrotherapy service, whether for a fee or gratuity,***
35 ***under the following circumstances:***

36 ***(A) With the intent to arouse, appeal to, or gratify sexual desires.***

37 ***(B) During a session when the client is not draped, whether***
38 ***with a sheet, towel, or both. Exposure of the genital area is***
39 ***prohibited.***

1 (C) While wearing clothing that does not reflect the general
2 standard of colon hydrotherapist professional attire, as determined
3 by the board.

4 (D) With the intent to diagnose any disease or prescribe any
5 drugs or supplements to a colon hydrotherapy client for any
6 specific conditions, unless the colon hydrotherapist is licensed
7 under Chapter 5 (commencing with Section 2000), the Medical
8 Practice Act, and is authorized under that act to make the diagnosis
9 and prescribe the drugs or supplements.

10 (E) To operate outside of the scope of practice of a colon
11 hydrotherapist, as established by this chapter.

12 (b) Any person who violates any provision of this chapter is
13 guilty of a misdemeanor and shall be punished by a fine of not less
14 than two hundred dollars (\$200) nor more than one thousand two
15 hundred dollars (\$1,200) or by imprisonment for a term of not less
16 than 60 days nor more than 180 days, or by both that fine and
17 imprisonment.

18 4999.94. (a) The board may revoke, suspend, or deny renewal
19 of a colon hydrotherapist license or a colon hydrotherapy
20 establishment license upon a finding of any of the following
21 conditions:

22 (1) The licensee has engaged in fraud in conducting the business
23 of a colon hydrotherapist or colon hydrotherapy establishment,
24 or of fraud or deceit in obtaining a license to conduct that business.

25 (2) The licensee has been convicted within the last five years in
26 a court of competent jurisdiction of a felony or of any offense
27 involving moral turpitude or dangerous or narcotic drugs.

28 (3) The licensee has engaged in false, fraudulent, misleading,
29 or deceptive advertising.

30 (4) The licensee is grossly ignorant or guilty of willful
31 negligence in the business of colon hydrotherapy or a colon
32 hydrotherapy establishment.

33 (5) The licensee is engaged in the business of a colon
34 hydrotherapist or colon hydrotherapy establishment under a false
35 or assumed name or is impersonating another practitioner.

36 (6) The licensee has violated any of the provisions of this
37 chapter.

38 (b) Any person having a complaint regarding the performance
39 or conduct of a colon hydrotherapist relative to the provisions of
40 this chapter may submit that complaint to the board for review.

1 Upon receipt of the complaint, the board shall give written notice
2 to the licensee that a review hearing will be held at a place and
3 time specified in the notice. That hearing shall not be sooner than
4 10 days nor more than 30 days from the date of the notice. The
5 notice shall state the grounds set forth in the complaint and the
6 licensee shall be allowed to appear and offer evidence. A record
7 shall be kept, including proof offered and a transcript of testimony.
8 The board shall, within three days of hearing, determine whether
9 there is sufficient cause to move forward with proceedings to
10 revoke or suspend the colon hydrotherapist's license. Within 10
11 days of determining that there is sufficient cause to move forward
12 with revocation or suspension proceedings, the board shall provide
13 the licensee written notice as required for a review hearing.

14 (c) Complaints received by the board that involve possible
15 criminal conduct of a colon hydrotherapist, in that capacity, shall
16 be immediately forwarded to the Attorney General for
17 investigation. If the Attorney General determines that criminal
18 conduct is not involved or prosecution is not warranted, that
19 information shall be provided to the board.

20 (d) If the board finds that a colon hydrotherapist has violated
21 the provisions of this chapter, the board may do any of the
22 following:

23 (1) Suspend his or her license within one year of the board's
24 finding, unless within that one-year period the licensee has fulfilled
25 requirements of additional education in an amount to be
26 determined by the board.

27 (2) Suspend his or her license for a six-month period, one-year
28 period, or permanently revoke the license following the board's
29 finding.

30 (e) To suspend or revoke a license, the board shall deliver to
31 the licensee, or by certified mail at his or her business address as
32 shown on the application or other more recent record, a written
33 notice of the board's decision. The cause of the suspension or
34 revocation shall be set forth in the notice. A suspended or revoked
35 license shall be surrendered to the board on demand.

36 4999.95. (a) No person, association, firm, or corporation shall
37 apply for any colon hydrotherapist license or colon hydrotherapy
38 establishment license within one year from the denial of that license
39 to the applicant or from the suspension, revocation, or nonrenewal
40 of that license, except where the denial of the license is the result

1 of a failure to pass the licensing examination, or the cause of the
 2 denial, suspension, revocation, or renewal has been, to the
 3 satisfaction of the board, removed within that time.

4 (b) Any person denied a license pursuant to the provisions of
 5 this chapter, or whose license has been suspended, revoked, or
 6 not renewed, may appeal in writing to the board within 10 days
 7 from the action, stating the reasons why the action was improper.
 8 The board shall hear the appeal on its merits not less than seven
 9 days nor more than 30 days following the filing of the appeal. The
 10 board may uphold, modify, or reverse the previous action, and its
 11 decision shall be binding on the applicant. If the applicant fails
 12 to appear at the hearing, the board may conduct the hearing and
 13 the decision of the board shall become binding upon the parties.

14 4999.96. The provisions of this chapter shall not apply to any
 15 of the following persons when they are practicing in their licensed
 16 profession and that profession overlaps the field of colon
 17 hydrotherapy:

18 (a) Licensees under the Medical Practice Act, Chapter 5
 19 (commencing with Section 2000).

20 (b) Licensees under the Chiropractic Act.

21 (c) Registered nurses when acting under the supervision of a
 22 licensed physician and surgeon.

23 4999.97. It shall be unlawful for persons practicing colon
 24 hydrotherapy for compensation within this state to advertise their
 25 practice using the term “colon hydrotherapist,” or any other term
 26 that implies a colon hydrotherapy technique or method in any
 27 public or private publication or communication, if they are not
 28 licensed as a colon hydrotherapist under this chapter.

29 4999.98. All fees collected by the board shall be paid into the
 30 State Treasury and shall be credited to the Colon Hydrotherapy
 31 Fund which is hereby created. The money in the fund shall be
 32 available, upon appropriation by the Legislature, for expenditure
 33 by the board to defray its expenses and to otherwise administer
 34 this chapter.

35 4999.99. The provisions of this chapter are severable. If any
 36 provision of this chapter or its application is held invalid, that
 37 invalidity shall not affect other provisions or applications that can
 38 be given effect without the invalid provision or application.

39 **SECTION 1.** ~~The Legislature finds and declares the following:~~

1 ~~(a) Senior citizens and the needy have the least amount of money~~
2 ~~available to purchase hearing aids.~~

3 ~~(b) Although hearing disorders may afflict any person, senior~~
4 ~~citizens and the needy can least afford medical procedures to~~
5 ~~improve their hearing.~~

6 ~~(c) The ability to hear is necessary in order to function socially~~
7 ~~and as a contributing member of society.~~

8 ~~(d) The senior citizen who has a hearing disorder is the person~~
9 ~~who is best qualified to determine whether he or she should~~
10 ~~purchase an over-the-counter hearing aid.~~

11 ~~(e) Hearing test units that allow senior citizens to determine~~
12 ~~which over-the-counter hearing aid is best for them can be installed~~
13 ~~in drugstores.~~

14 ~~(f) Hearing aid manufacturers have stated, and are willing to~~
15 ~~testify, that over-the-counter hearing aids are safe for the customer.~~

16 ~~(g) The cost of a high-quality hearing aid obtained through an~~
17 ~~audiologist typically exceeds six thousand dollars (\$6,000).~~

18 ~~(h) The electronics in a high-quality home entertainment system~~
19 ~~with the ability to receive and amplify audio frequencies and~~
20 ~~reproduce distortion-free sound at all frequencies and levels are~~
21 ~~more sophisticated than the electronics in a hearing aid, and cost~~
22 ~~significantly less than a typical hearing aid that is sold through an~~
23 ~~audiologist.~~

24 ~~(i) The manufacturing cost of high-quality integrated circuits~~
25 ~~for current hearing aids is less than twelve dollars and fifty cents~~
26 ~~(\$12.50).~~

27 ~~(j) A full-page newspaper advertisement in the San Jose Mercury~~
28 ~~News on May 1, 2006, offered factory-direct hearing aids, known~~
29 ~~as ampli-ear hearing amplifiers, at a cost of thirty-four dollars and~~
30 ~~fifty cents (\$34.50) per ear, although the quality of this product~~
31 ~~has not been evaluated by the State of California.~~

32 ~~(k) Hearing aids of the same quality as those hearing aids that~~
33 ~~sell for two thousand five hundred dollars (\$2,500) per ear can be~~
34 ~~produced with replaceable batteries and offered as over-the-counter~~
35 ~~products for approximately one hundred dollars (\$100) per ear.~~

36 ~~SEC. 2. Section 3351.7 is added to the Business and Professions~~
37 ~~Code, to read:~~

38 ~~3351.7. Notwithstanding any other provision of law, this~~
39 ~~chapter shall not prohibit the sale of over-the-counter hearing aid~~

- 1 ~~devices as merchandise by a person who is not licensed pursuant~~
- 2 ~~to this chapter if those sales are authorized under federal law.~~

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